

## § 10.20

## 10 CFR Ch. I (1–1–12 Edition)

(b) The individual may elect on constitutional or other grounds not to participate in an interview or other investigation; however, such refusal or failure to furnish or authorize the furnishing of relevant and material information is deemed to be derogatory information pursuant to §10.11(a) (5) and (12).

(c) If the Director, Division of Facilities and Security, cannot make a favorable finding regarding the eligibility of an individual for access authorization and/or employment clearance, the question of the individual's eligibility must be resolved in accordance with the procedures set forth in §10.20 *et seq.*

[47 FR 38676, Sept. 2, 1982, as amended at 52 FR 31609, Aug. 21, 1987; 54 FR 53316, Dec. 28, 1989; 64 FR 15642, Apr. 1, 1999]

### Subpart C—Procedures

#### § 10.20 Purpose of the procedures.

These procedures establish methods for the conduct of hearings and administrative review of questions concerning an individual's eligibility for an access authorization and/or an employment clearance pursuant to the Atomic Energy Act of 1954, as amended, and Executive Orders 10450, 10865, and 12968 when a resolution favorable to the individual cannot be made on the basis of the interview or other investigation.

[64 FR 15642, Apr. 1, 1999]

#### § 10.21 Suspension of access authorization and/or employment clearance.

In those cases where information is received which raises a question concerning the continued eligibility of an individual for an access authorization and/or an employment clearance, the Director, Division of Facilities and Security, through the Director, Office of Administration, shall forward to the Deputy Executive Director for Information Services and Administration and Chief Information Officer or other Deputy Executive Director, his or her recommendation as to whether the individual's access authorization and/or employment clearance should be suspended pending the final determination resulting from the operation of the pro-

cedures provided in this part. In making this recommendation the Director, Division of Facilities and Security, shall consider factors such as the seriousness of the derogatory information developed, the degree of access of the individual to classified information, and the individual's opportunity by reason of his or her position to commit acts adversely affecting the national security. An individual's access authorization and/or employment clearance may not be suspended except by the direction of the Executive Director for Operations, Deputy Executive Director for Information Services and Administration and Chief Information Officer or other Deputy Executive Director.

[64 FR 15642, Apr. 1, 1999]

#### § 10.22 Notice to individual.

A notification letter, prepared by the Division of Facilities and Security, approved by the Office of the General Counsel, and signed by the Director, Office of Administration, must be presented to each individual whose eligibility for an access authorization and/or an employment clearance is in question. Where practicable, the letter will be presented to the individual in person. The letter will be accompanied by a copy of this part and must state:

(a) That reliable information in the possession of the NRC has created a substantial doubt concerning the individual's eligibility for an access authorization and/or an employment clearance;

(b) The information that creates a substantial doubt regarding the individual's eligibility for an access authorization and/or an employment clearance, that must be as comprehensive and detailed as the national security interests and other applicable law permit;

(c) That the individual has the right to be represented by counsel or other representative at their own expense;

(d) That the individual may request within 20 days of the date of the notification letter, any documents, records and reports which form the basis for the question of their eligibility for an access authorization and/or an employment clearance. The individual will be